

DE 82-12--June 17, 1982

POLITICAL POLLS ss. 106.17, 97.021, F.S. (1981)

To: Mr. Greg Farmer, Concord Square, Suite 205, Seven East Silver Springs Boulevard, Ocala, Florida 32670

Prepared By: Division of Elections

This is in response to your request for an opinion on substantially the following question:

May a person commission a poll to determine whether or not to run for a state legislative position, without declaring as a candidate and/or filing with your office?

Your question basically asks whether the Election Code provides for “testing of the water” polls. Your question is answered in the negative.

Section 106.17, Florida Statutes, (1981), provides:

“Any candidate, committee or state or county executive committee of a political party may authorize or conduct a political poll, survey, index, or measurement of any kind relating to candidacy for public office so long as the candidate, political committee, or political party maintains complete jurisdiction over the polls in all its aspects. (Emphasis supplied)

A candidate is defined in s. 97.021(18), F.S., which states:

“(18) “Candidate” means any person to whom any one or more of the following applies:

- (a) Any person who seeks to qualify for nomination or election by means of the petitioning process.
- (b) Any person who seeks to qualify for election as a write-in candidate.
- (c) Any person who receives contributions or makes expenditures, or gives his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination or election to, or retention in, public office.
- (d) Any person who appoints a treasurer and designates a primary depository.
- (e) Any person who files qualification papers and subscribes to a candidate's oath as required by law.”

Thus, we find no provision of the Election code that would permit a person to commission a political poll for determining his or her potential for conducting a campaign for a state legislative office without first filing his/her candidacy.

A person, however, is not precluded by s. 106.17, F.S., from commissioning a poll, other than a political poll, provided that such poll is financed solely from his or her personal financial resources. The questions in such poll must be narrowly drawn for specific name recognition, issue oriented matters or other information not related to any political office.

Your question is answered accordingly.

SUMMARY

A person must become a candidate as defined in section 97.021(18), F.S., in order to commission a political poll for determining his or her potential for conducting a campaign for a state legislative office. However, a specific name recognition, issue oriented or informational poll may be commissioned that is financed solely from personal financial resources on questions that are unrelated to any political office.